



Education Report: Review of the Early Learning Regulatory System: Revised Scope and Timeframes, and Draft Cabinet Paper

To:	Hon Chris Hipkins, Minister of Education		
Date:	28 February 2020	Priority:	High
Security Level:	In Confidence	METIS No:	1221884
Drafter:	Kirsty Macdonald	DDI:	s 9(2)(a)
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Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The purpose of this paper is for you to:

- **Agree** to the revised Terms of Reference for the Review of the Early Learning Regulatory System and the proposed scope, process and timelines for tranche one
- **Provide** feedback on the draft Cabinet paper for tranche one of the Review

Summary

- 1 The Ministry of Education previously briefed you on the Review of the Early Learning Regulatory System, which is intended to ensure that it is clear and fit for purpose to support high quality educational outcomes (METIS 1218418 refers).
- 2 Following your feedback we have revised the Terms of Reference for the Review to ensure the alignment of the funding and regulatory standards for qualified staff. This will be considered as part of the move towards regulating for 80% qualified staff in teacher-led, centre-based services.
- 3 We are also seeking your feedback on the draft Cabinet paper, which is seeking agreement to issue drafting instructions and begin consultation on the draft regulations in May. It is intended that this paper be considered by the Social Wellbeing Cabinet Committee on 1 April and Cabinet on 6 April.

Recommended Actions

The Ministry of Education recommends you:

- a. **approve** the attached Terms of Reference for the Review of the Early Learning Regulatory System

Approved / Not approved

- b. **agree** to the proposed scope and timeframes for tranche one of the Review of the Early Learning Regulatory System

Agree / Disagree

- c. **agree** to consider a generic definition of parent-led services in the regulatory framework as part of the Regulatory Review

Agree / Disagree

- d. **provide** feedback on the draft Cabinet paper *Proposed Changes to the Early Learning Regulatory System*

Provided / Not provided

- e. **proactively release** this Education Report and attached Terms of Reference after Cabinet has agreed to the scope and process for the Review of the Early Learning Regulatory System

Release / Not release


Damian Edwards
**Associate Deputy Secretary
Education System Policy**

28/2/20

Hon Chris Hipkins
Minister of Education

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Background

- 1 On 2 February 2020, we provided you with an Education Report which sought your agreement to the Terms of Reference for the Review of the Early Learning Regulatory System (the Review) and the proposed scope, process and timelines for tranche one of the Review (METIS 1218418 refers).
- 2 You asked us to amend the Terms of Reference to ensure there is alignment between the Regulations and the Funding Handbook for qualified teaching staff in teacher-led, centre-based services. The revised Terms of Reference are attached in Annex 1 for your approval.

Alignment of funding and regulatory requirements for qualified staff

- 3 On 16 August 2019, ahead of an early learning strategy session, we provided you with an Education Report to support the discussion (METIS 1201536 refers). In that Report we outlined options for regulating for 80% qualified staff in teacher-led, centre-based services.
- 4 One of the issues raised the difference in definitions of qualified for funding and regulations. Generally, funding requirements have a broader definition of what counts as qualified, and there is some leeway for periods where services fall below the 80%+ requirements. As part of any move towards 80% qualified staff, we will consider how to align the funding and regulatory requirements to ensure a consistent approach.
- 5 Tranche two of the Review will include options for regulating a minimum of 80% qualified staff in teacher-led, centre-based services. We have revised the Terms of Reference to make it explicit that we will be considering how to align the funding and regulatory requirements for qualified staff as part of this work. The revised Terms of Reference are attached for your approval.

Progressing tranche one of the Review

Revised scope for tranche one of the Review

- 6 We have made two changes to the scope of tranche one which are reflected in the attached Terms of Reference. We have shifted the following items to later tranches:
 - a. s 9(2)(f)(iv)
 - b. introducing a fee for licence amendments has been shifted to tranche three to be included as part of the wider consideration of cost recovery for licensing services
 - c. clarifying definitions relating to 'identity of service provider', 'service provider contact', and 'child' to be included in the wider consideration of the licensing aspects of the system.

Draft Cabinet paper

- 7 As indicated in our earlier advice, it is intended for the final regulatory changes in the first tranche of the Review to be considered by Cabinet in early August (METIS

1218418 refers). Therefore, we propose that you seek Cabinet approval to consult on the draft regulations through the Social Wellbeing Cabinet Committee (SWC) on 1 April and Cabinet on 6 April.

- 8 To progress tranche one of the Review we have prepared the attached draft Cabinet paper for your consideration and feedback. The draft Cabinet paper covers the following changes (outlined in our previous advice to you):
- a. Clarify the information used to assess an application for a probationary licence
 - b. Amend provisional licences to remove ambiguity
 - c. Remove the 21 day minimum notice period for suspensions for not returning a full licence when invalid
 - d. Clarify issues relating to the fee for a new licence
 - e. Clarify the provisions for licence amendments for a change in the identity of the service provider
 - f. Remove the 21 day minimum notice period for suspensions for change of control
 - g. Clarify the use of written directives for health and safety matters
 - h. Consolidate existing person responsible requirements.
- 9 We will provide a further draft of the Cabinet paper and regulatory impact statement to you for your consideration and ministerial consultation on 16 March following agency consultation.

Announcing the Review

- 10 You have agreed to announce the Review at the next Early Childhood Advisory Committee (ECAC) meeting on Wednesday 4 March. We will be providing you with material to support you at ECAC in a separate briefing note.

Playcentre

- 11 As part of tranche three of the Review, we have included a consideration of broadening the definition of parent-led service to include playcentres that are not affiliated with Playcentre Aotearoa.
- 12 It is likely that Playcentre Aotearoa would not support expanding the definition, as it could exacerbate existing financial sustainability issues if playcentres leave the organisation.
- 13 We are seeking your agreement on the inclusion of this proposal as part of the Review.

Proactive Release

- 14 It is intended that this Education Report is proactively released after Cabinet has agreed to the scope and process for the Review of the Early Learning Regulatory System, as per your expectation that information be released as soon as possible. Any information which may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

Annexes

- Annex 1: Terms of Reference: Review of the Early Learning Regulatory System (tracked change version)
- Annex 2: Terms of Reference: Review of the Early Learning Regulatory System (clean version)
- Annex 3: Draft Cabinet paper: *Proposed changes to the early learning regulatory system*